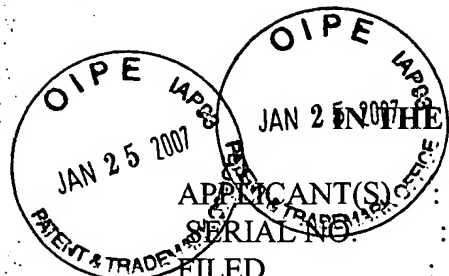


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Fuchs, et al.
SERIAL NO. : 10/662,781
FILED : September 15, 2003
FOR : Chemical Synthons and Intermediates
GROUP ART UNIT : 1625
Examiner : Taylor V. Oh

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia, 22313-1450

**Election of Invention in Response
to Restriction Requirement**

In response to the Examiner's correspondence dated December 20, 2006, pursuant to the Examiner's restriction requirement in the above-referenced patent application, Applicants provisionally elect with traverse to prosecute the invention of group I, namely claims 3-9 and 12-13 which are drawn to non-heterocyclic compounds containing a sulfonyl group, which are classified in class 558, subclass 61, class 568, subclass 38 or class 564, subclass 28 pursuant to this election.

Notwithstanding Applicants' election, Applicants respectfully traverse the Examiner's requirement for restriction. Applicants respectfully request the Examiner reconsider his restriction requirement regarding the election of the inventions and examine all claims in groups I and II (claims 3-9 and 12-13) in the present application. Applicants respectfully submit that prosecution of all of the claims in groups I and II as set forth above will allow the Examiner to examine the entire application in one prosecution without being subjected to an undue burden as discussed hereinbelow. Note that the Examiner will be required to search 3 classes and subclasses for the elected invention of Group I, whereas the examination of Group II will add only one class/subclass to be searched.

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According to M.P.E.P. §803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a *serious burden* would be placed on the Examiner if restriction was not required. Applicant respectfully submits that the presentation of the amended claims would not place such a serious burden on the Examiner as to require restriction. All of the originally restricted claims of the present invention are directed to related, though patentably distinct compounds which would not impose a heavy burden of examination on the part of the Examiner.

Thus, it is Applicants' view that any search the Examiner would need to conduct in examining the instant application of all the claims would not be unduly burdensome. That would not be to say that the examination would not be rigorous or even time-consuming, but that such effort would not meet the burden requirements of MPEP§803 in order to impose restriction. Moreover, the examination of all of the claims of groups I and II of the instant application would not place such a serious burden on the Examiner as to require restriction, especially in light of the administrative efficiency gained by doing all of the claims at the same time, especially given the close relationship of the subject matter.

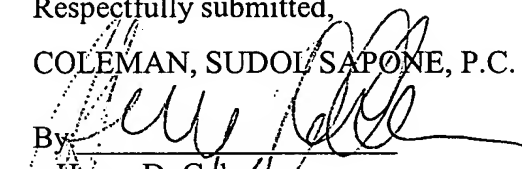
Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicants wish the Patent Office examine their patent application with a certain degree of "administrative efficiency" and wish to have patent claims issue which reflect the breadth of their invention.

Applicants respectfully submit that claims 3-9 and 12-13 of groups I and II are sufficiently narrow to allow the Examiner to determine patentability without being subjected to

the serious burden referred to in M.P.E.P. §803. Consequently, Applicant respectfully requests that the Examiner withdraw the restriction/election requirement with respect to claims 3-9 and 12-13 of invention groups I and II. Note that the Examiner will be required to search 3 classes and subclasses for the elected invention of Group I, whereas the examination of Group II will add only one subclass to be searched.

The Examiner is cordially requested to call the undersigned attorney if the Examiner believes that a telephonic discussion may materially advance the prosecution of the instant application in any way. No fee is due for the presentation of the instant paper. The Commissioner is authorized to charge any deficiency in the fee or to credit any overpayment to deposit account 04-0838.

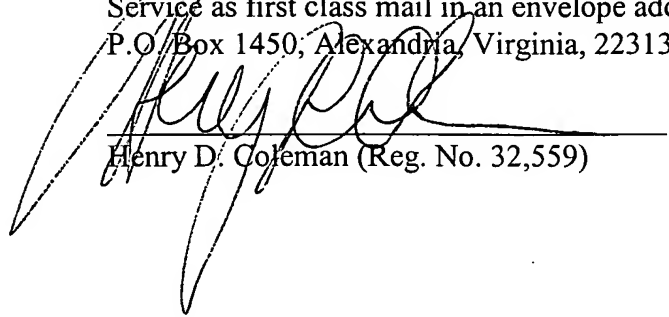
Respectfully submitted,
COLEMAN, SUDOL SAPONE, P.C.

By 
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Dated: January 22, 2007

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450, dated January 22, 2007.


Henry D. Coleman (Reg. No. 32,559)

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